

IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

VERIZON,	)	
	)	
Appellant,	)	
	)	
v.	)	No. 11-1014
	)	
FEDERAL COMMUNICATIONS COMMISSION,	)	
	)	
Appellee.	)	

**MOTION OF THE FCC TO DEFER CONSIDERATION  
OF VERIZON’S MOTION FOR PANEL ASSIGNMENT  
AND TO DEFER FILING OF THE RECORD**

Verizon has filed a motion asking the Court to assign this case to the same panel that heard *Comcast Corp. v. FCC*, 600 F.3d 642 (D.C. Cir. 2010). The FCC has filed a motion to dismiss Verizon’s case, which would render moot Verizon’s motion for a panel assignment. Under F.R.A.P. 27(a)(3)(A), the FCC’s response to Verizon’s panel-assignment motion may be due before the Court decides the FCC’s motion to dismiss.

We ask that, in the interests of efficiency and conservation of resources, the Court defer the FCC’s response to and the Court’s consideration of Verizon’s motion until it is clear whether the case will be heard in this Court. If the Court dismisses this case, for example, any resources expended on the panel-assignment issue will have been wasted.

For the same reason, even if the Court does not dismiss, given the possibility of a forum-selection lottery under 28 U.S.C. § 2112 and possibly additional litigation concerning the proper venue for this case in the event that petitions for review of the *Open Internet Order* are filed by other parties, it is the prudent course to defer a response to Verizon's panel motion until it is clear whether the case will be heard here.

For the same reasons, we ask the Court to defer the date for filing the certified list of items in the record until such time, if any, as it has been decided that the case will be heard in this Court.

Respectfully submitted,

/s/ Joel Marcus

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January 28, 2011

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<b>Verizon,</b>	)	
<b>Appellant,</b>	)	
	)	
<b>v.</b>	)	<b>No. 11-1014</b>
	)	
<b>Federal Communications Commission,</b>	)	
<b>Appellee.</b>	)	

**CERTIFICATE OF SERVICE**

I, Joel Marcus, hereby certify that on January 28, 2011, I directed that the foregoing Motion to Defer be filed electronically with the Clerk of the Court for the United States Court of Appeals for the D.C. Circuit by using the CM/ECF system. Counsel for appellant listed below, who are registered CM/ECF users, will be served by the CM/ECF system.

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